

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DELMA LAMAR SULLIVAN,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-15-67-M
)	
H. A. RIOS, Warden, Lawton Correctional)	
Facility,)	
)	
Respondent.)	

ORDER


On June 12, 2015, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation in this action brought pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus. The Magistrate Judge recommended that petitioner's Petition for Writ of Habeas Corpus be dismissed for failure to state a cognizable federal habeas claim, or alternatively that respondent's motion to dismiss be granted and the petition be dismissed as time-barred. The parties were advised of their right to object to the Report and Recommendation by July 2, 2015. On June 26, 2015, petitioner filed his objection. In his objection, petitioner asserts that habeas corpus relief should be available for petitioner, and others similarly situated, in instances where the state court violates its post-conviction procedures. Petitioner further asserts that, pursuant to 28 U.S.C. § 2244(d)(1)(D), the one year time limit for him to apply for habeas corpus relief, should have begun to run when petitioner received the affidavit from his co-defendant stating that petitioner did not have the requisite criminal intent to be convicted and sentenced for First Degree Murder, not when petitioner had the knowledge .¹

¹ On January 26, 1995, petitioner was sentenced to life imprisonment in the District Court of Oklahoma County after a jury found him guilty of First Degree Murder. The Oklahoma Court of Criminal Appeals affirmed the conviction and sentencing.

Accordingly, upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation [docket no. 13] issued by the Magistrate Judge on June 12, 2015; and
- (2) DISMISSES petitioner's Petition for Writ of Habeas Corpus [docket no. 1] for failure to state a cognizable federal habeas claim.

IT IS SO ORDERED this 18th day of August, 2015.


VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE